IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

FAO No.207 of 2006.

Judgment Reserved on: 25.04.2007

Date of decision: 03.05.2007.

National Insurance Company ….Appellant

Versus

Meem Chand and Others ….Respondents

Coram

The Hon'ble Mr.Justice Dev Darshan Sud,J.

Whether approved for reporting ?[1]

For the Appellant: **Mr.Sandeep Sharma, Advocate.**

For Respondent No.1: **Mr.Deepak Kaushal, Advocate.**

For Respondent No.2: **Ms.Anita Dogra, Advocate.**

For Respondent No.3: **Ms.Salochna Kaundal, Advocate.**

Dev Darshan Sud,J.

Admit.

By consent of the parties the appeal is being disposed of at the admission stage itself.

The appeal has been preferred by the National Insurance Company against the award of the learned Motor Accident Claims Tribunal-1, Sirmaur District at Nahan. The claimant had approached the learned Tribunal for award of compensation on the allegation that on 7.7.2004 when the claimant-respondent was discharging his duties at the Excise and Taxation Barrier at Kala Amb, the

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[1] *Whether the reporters of Local Papers may be allowed to see the judgement*?

truck involved in the accident, driven by Sohan Lal alias Kala hit the barrier and the claimant was injured. Two police officials who were on duty succumbed to the injuries sustained by them. The petition was resisted on a number of grounds, primarily on the ground that the petition was not maintainable, there was no valid driving licence and there was violation of mandatory clauses of the Insurance Policy.

This appeal is being disposed of at the initial stage since the only challenge made by the appellant is to the award of Rs.12,000/- with interest @ 9% per annum which is a petty amount.

Considering the awarded amount, this would not be a fit case in which this Court would like to go into the alleged finer points of law raised for its consideration purportedly arising from the facts. The Tribunal as a fact, on the basis of the evidence, found that the accident had been caused as a result of the rash and negligent driving and I am unable to persuade himself to take any other view.

Learned counsel appearing for the appellant has urged that no liability could be fastened on him as the identity of the driver was not established. While deciding issue No.1 on this point, the learned Tribunal has considered this submission in detail by a thorough examination of the evidence and the fact that whether non-joinder of the driver fatal to the claim. The findings of the learned Tribunal on this issue against

the appellant cannot be faulted with. The appellant also submits that the rate of interest is excessively high. This submission has been made only to be rejected. The interest awarded is neither excessive nor unreasonable. Learned counsel for the appellant submits that a case under the Indian Penal Code has been registered against Sohan Lal, driver of the offending vehicle. This matter was also considered in detail by the learned Tribunal, but contention put forth by the appellant was rejected. Moreover, the findings in criminal case will not detract the liability of the appellant.

In the totality of the circumstances and considering the fact that a petty sum of Rs.12,000/- has been awarded, I do not see any reason to interfere in this petition. Rather the Insurance Company is stretching the matter away too far.

The appeal is, therefore, dismissed. There shall be no order as to costs.

May 3,2007 (Dev Darshan Sud)
(aks) Judge.